

1 KAMALA D. HARRIS  
Attorney General of California  
2 MARC D. GREENBAUM  
Supervising Deputy Attorney General  
3 ZACHARY T. FANSELOW  
Deputy Attorney General  
4 State Bar No. 274129  
300 So. Spring Street, Suite 1702  
5 Los Angeles, CA 90013  
Telephone: (213) 897-2562  
6 Facsimile: (213) 897-2804  
*Attorneys for Complainant*

8 **BEFORE THE**  
9 **BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. **2013-721**

12 **JENNIFER DIANE CAVANAUGH**  
1668 Ridgewood Drive  
13 Camarillo, CA 93012

**A C C U S A T I O N**

14 Registered Nurse License No. 569532

15 Respondent.

16  
17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her  
20 official capacity as the Executive Officer of the Board of Registered Nursing, Department of  
21 Consumer Affairs ("Board").

22 2. On or about July 31, 2000, the Board issued Registered Nurse License No. 569532 to  
23 Jennifer Diane Cavanaugh ("Respondent"). The Registered Nurse License was in full force and  
24 effect at all times relevant to the charges brought herein and will expire on October 31, 2013,  
25 unless renewed.

26 **JURISDICTION**

27 3. This Accusation is brought before the Board under the authority of the following  
28 laws. All section references are to the Business and Professions Code unless otherwise indicated.

1  
2  
3  
4  
5  
6  
7  
8  
9  
0  
1  
2  
3  
4  
5  
6  
7  
8  
9  
0  
1  
2  
3  
4  
5  
6  
7  
8

2  
3  
4  
5

6  
7  
8

9  
0  
1

2

3  
4

5

6

7  
8  
9

O

- 1
- 2
- 3

4

5  
6  
7

8

"(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.

"(c) Be convicted of a criminal offense involving the prescription, consumption, or self-administration of any of the substances described in subdivisions (a) and (b) of this section, or the possession of, or falsification of a record pertaining to, the substances described in subdivision (a) of this section, in which event the record of the conviction is conclusive evidence thereof. . . ."

9. Section 2764 provides that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811, subdivision (b), the Board may renew an expired license at any time within eight (8) years after the expiration.

## REGULATORY PROVISIONS

10. California Code of Regulations, title 16, section 1444, states:

“A conviction or act shall be considered to be substantially related to the qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the present or potential unfitness of a registered nurse to practice in a manner consistent with the public health, safety, or welfare. Such convictions or acts shall include but not be limited to the following:

“(a) Assaultive or abusive conduct . . . .”

## COST RECOVERY

11. Section 125.3 provides that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case, with failure of the licentiate to comply subjecting the license to not being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be included in a stipulated settlement.

1                                    **CONTROLLED SUBSTANCES / DANGEROUS DRUGS**

2            12.    Ambien, a brand name for zolpidem tartrate, a nonbarbiturate hypnotic, is a  
3    Schedule IV controlled substance as designated by Health and Safety Code section 11057,  
4    subdivision (d)(32), and categorized as a dangerous drug pursuant to section 4022.

5            13.    Darvocet, a brand name for dextropropoxyphene, is a Schedule IV controlled  
6    substances as designated by Health and Safety Code section 11057, subdivision (c)(2), and  
7    categorized as a dangerous drug pursuant to section 4022.

8            14.    Effexor, a brand name for venlafaxine, is a dangerous drug pursuant to section 4022.

9                                    **FIRST CAUSE FOR DISCIPLINE**

10                                **(Convictions of Substantially Related Crimes)**

11           15.    Respondent is subject to disciplinary action under section 490 and section 2761,  
12    subdivision (f), in conjunction with California Code of Regulations, title 16, section 1444, in that  
13    Respondent was convicted of crimes substantially related to the qualifications, functions or duties  
14    of a registered nurse which to a substantial degree evidence her present or potential unfitness to  
15    practice in a manner consistent with the public health, safety, or welfare. The convictions are as  
16    follows:

17           a.    On or about October 19, 2011, after pleading guilty and admitting to sustaining a  
18    prior driving under the influence of alcohol conviction, Respondent was convicted of one  
19    misdemeanor count of violating Vehicle Code section 23152(a) [driving under the influence of  
20    alcohol and/or drugs] in the criminal proceeding entitled *The People of the State of California v.*  
21    *Cavanaugh, Jennifer Diane* (Super. Ct. Ventura County, 2010, No. 2010015807MA). The Court  
22    sentenced Respondent to 40 days jail, placed her on 60 months probation, and ordered her to  
23    complete the Drinking Driver Program (Multiple Conviction Program – previously SB 38).

24           b.    The circumstances underlying the conviction are that on or about April 18, 2010,  
25    Respondent admitted to taking Ambien, a controlled substance and dangerous drug, and falling  
26    asleep while driving. Respondent drove her vehicle into a hillside, turning it over in a single car  
27    collision, during which she sustained a laceration on her left hand for which she was taken to the  
28    hospital for treatment.

1 c. On or about October 19, 2011, after pleading guilty and admitting to the  
2 corresponding special allegation, Respondent was convicted of one misdemeanor count of  
3 violating Vehicle Code section 23152(b) [driving while having 0.08% or more, by weight, of  
4 alcohol in her blood] and the special allegation of Vehicle Code section 23578 [driving with  
5 greater than or equal to 0.15% or more, by weight, of alcohol in her blood] was found to be true  
6 in the criminal proceeding entitled *The People of the State of California v. Cavanaugh, Jennifer*  
7 *Diane* (Super. Ct. Ventura County, 2009, No. 2009045847MA). The Court sentenced  
8 Respondent to five (5) days jail, placed her on 36 months probation, and ordered her to complete  
9 the Drinking Driver Program (Multiple Conviction Program – previously SB 38).

10 d. The circumstances underlying the conviction are that on or about December 16, 2009,  
11 Respondent drove a vehicle while under the influence of alcohol and/or drugs and was involved  
12 in a traffic collision. Police officers found an empty bottle of wine, an empty bottle of sake,  
13 prescription bottles containing Effexor and Zolpidem (Ambien) in Respondent's vehicle. Police  
14 officers also found three (3) pills in Respondent's pocket, which Respondent identified as being  
15 Darvocet. After obtaining a blood sample from Respondent, Respondent kicked a police officer  
16 and caused the officer to sustain a 2" diameter contusion.

## 17 **SECOND CAUSE FOR DISCIPLINE**

### 18 **(Alcohol Related Convictions)**

19 16. Respondent is subject to disciplinary action under section 2761, subdivision (a),  
20 and section 2762, subdivision (c), on the grounds of unprofessional conduct, in that on or about  
21 October 19, 2011, Respondent sustained two (2) criminal convictions involving the self-  
22 consumption of alcoholic beverages and / or dangerous drugs. Complainant refers to and by this  
23 reference incorporates the allegations set forth above in paragraph 15, subparagraphs a through d,  
24 inclusive, as though set forth fully.

## 25 **THIRD CAUSE FOR DISCIPLINE**

### 26 **(Dangerous Use of Alcohol and/or Drugs)**

27 17. Respondent is subject to disciplinary action under section 2761, subdivision (a),  
28 and section 2762, subdivision (b), on the grounds of unprofessional conduct, in that on or about

1 April 18, 2010, and on or about December 16, 2009, Respondent dangerously used alcoholic  
2 beverages and / or dangerous drugs to an extent or in a manner dangerous or injurious to herself  
3 or others. Complainant refers to and by this reference incorporates the allegations set forth above  
4 in paragraphs 15 and 16, inclusive, as though set forth fully.

5 **FOURTH CAUSE FOR DISCIPLINE**

6 **(Violating Provisions of the Nursing Practice Act)**

7 18. Respondent is subject to disciplinary action under section 2761, subdivision (d), in  
8 that Respondent violated provisions of the Nursing Practice Act. Complainant refers to, and by  
9 this reference incorporates, the allegations set forth above in paragraphs 15 through 17, inclusive,  
10 as though set forth fully.

11 **PRAYER**

12 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
13 and that following the hearing, the Board of Registered Nursing issue a decision:

- 14 1. Revoking or suspending Registered Nurse License No. 569532, issued to Jennifer  
15 Diane Cavanaugh;  
16 2. Ordering Jennifer Diane Cavanaugh to pay the Board the reasonable costs of the  
17 investigation and enforcement of this case, pursuant to section 125.3; and  
18 3. Taking such other and further action as deemed necessary and proper.

19  
20  
21 DATED: March 7, 2013

22 *for* *Louise R. Bailey*  
23 LOUISE R. BAILEY, M.ED., RN  
24 Executive Officer  
25 Board of Registered Nursing  
26 Department of Consumer Affairs  
27 State of California  
28 Complainant

26 LA2012507568  
27 11/1/2012dmm  
28 51186881.doc